

United States District Court
Southern District of New York

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1-7-11

In re:

RIDGEMOUR MEYER PROPERTIES, LLC

09 Civ. 3765 (JGK)

Debtor.

MEMORANDUM OPINION AND
ORDER

GINSBURG DEVELOPMENT COMPANIES, LLC,

Appellant,

- against -

KENNETH P. SILVERMAN, ET AL.,

Appellees.

JOHN G. KOELTL, District Judge:

The appellant, Ginsburg Development Companies, LLC, appeals a March 9, 2009 order of the Bankruptcy Court (Bernstein, B.J.) that denied the appellant's application for sanctions against the debtor Ridgemour Meyer Properties, LLC and its principal, A.J. Rotonde. The denial of sanctions by the Bankruptcy Court is reviewed for abuse of discretion. See In re Cohoes Indus. Terminal, Inc., 931 F.2d 222, 227 (2d Cir. 1991); Grand Street Realty, LLC v. McCord, No. 04 Civ. 4738, 2005 WL 2436214, at *8 (E.D.N.Y. Sept. 30, 2005).

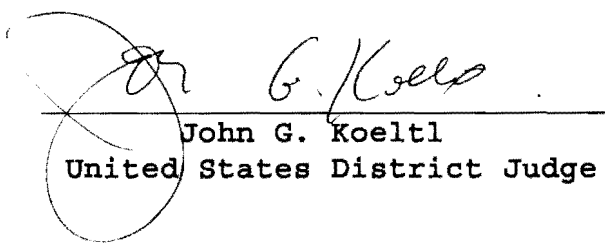
In this case, the Bankruptcy Court did not abuse its discretion in denying an award of sanctions where the appellant complained primarily about pre-petition conduct of the debtor;

the appellant had withdrawn its application to dismiss the Chapter XI proceeding and took advantage of the bankruptcy proceeding, see Cohoes, 931 F.2d at 229-30; and the Bankruptcy Court did not find that the petition or the accompanying affidavit were filed in bad faith. Contrary to the appellant's argument, the Bankruptcy Court's exercise of its discretion does not rest on any errors of law.

The Order of the Bankruptcy Court is therefore **affirmed**.
The Clerk is directed to close this case.

SO ORDERED.

Dated: New York, New York
January 5, 2011



John G. Koeltl
United States District Judge